



February 3, 2022

Chairman William Smith, Jr.
Chair, Judicial Proceedings Committee
Maryland Senate
Annapolis, MD 21401

Re: CASA Testimony in SUPPORT of SB129, Access to Counsel in Immigration Proceedings

Dear Honorable Chairman Smith, Vice Chair Waldstreicher, and Members of the Committee:

We are writing to express our strong support for SB129, establishing access to counsel for detained immigrants. CASA is the largest membership-based immigrant rights organization in the mid-Atlantic region, with more than 90,000 members in Maryland. Our mission is to create a more just society by building power and improving the quality of life in working class and immigrant communities. We envision a future where our members stand in their own power, our families live free from discrimination and fear, and our diverse communities thrive as we work with our partners to achieve full human rights for all.

For nearly forty years, CASA has employed grassroots community organizing to bring our communities closer together and fight for justice, while simultaneously providing much needed services to these communities, helping to ensure that low-income immigrants are able to live rich and full lives. Sadly, for much of that time, our nation's broken and punitive immigration system has attacked those same communities, exposing them to constant risk of detention and deportation. Every year thousands of immigrants come through CASA's doors seeking legal counsel, many of them impacted by immigration detention in one way or another.

In partnership with amazing local partners like the CAIR Coalition and the Maryland Office of the Public Defender, as well as national allies like the Vera Institute of Justice and the Center for Popular Democracy, CASA has fought against those attacks by supporting families and communities who have been victimized by ICE enforcement. We work to connect affected individuals with legal assistance and other vital services. In areas where these efforts have been supported by local governments, such as Prince George's County and Baltimore City, we have seen dramatically better results for immigrants in detention. Currently, CASA is representing a community member,

Manuel*¹, who we were connected with through the Prince George's County program. Manuel is a hardworking father of four, who has lived in this country for almost twenty years. Despite the fact that he has a son with cerebral palsy who needs the support of his father, ICE has kept Manuel detained and separated from his family. Without the support of an attorney, Manuel would face likely expulsion from this country, his home of two decades, placing his family at risk of emotional and economic ruin, and his special needs son in desperate circumstances.

The Prince George's County and Baltimore City programs have had tremendous impact on hundreds of lives. But, these programs are limited in scope, only able to represent a fraction of even their residents who are facing immigration detention, and not able to extend beyond their local boundaries. We need a strong, state-wide commitment to representation for all Maryland residents who are in immigration detention. That is what SB129 provides.

In establishing access to counsel for detained Marylanders, SB129 also acknowledges the vital role that community based organizations like CASA play in helping to protect immigrant communities from ICE abuse by rapidly facilitating the connection between families and service providers when ICE does detain community members. The bill allows the Maryland Legal Services Corporation ("MLSC") to designate community groups to engage in education and outreach to vulnerable communities, ensuring that at-risk individuals understand their rights and have the greatest opportunity to prevent them from being permanently separated from their families and communities. Often the victim of an ICE raid will be the primary breadwinner in a home, making it incredibly difficult for their family to afford basic necessities like rent and food, let alone hire a lawyer.

Community organizations can often be the most efficient way of connecting those in detention with counsel at the earliest possible moment, and help to facilitate the production of vital evidence that can support an individual's legitimate claim to remain in the United States. Unlike defendants in the criminal justice system who are automatically entitled to government-provided counsel, immigrants in detention have no such automatic right. Rather, they must affirmatively find, and pay for, their own attorney from behind prison bars. Needless to say, this is a monumentally difficult task and a primary reason why the majority of detained immigrants currently have to fight their case without an attorney. Organizations like CASA, who have the trust of the immigrant community, can help bridge that gap by serving as a link between the detained individual (or their family) and a service provider. CASA is routinely contacted by individuals who have loved ones in immigration detention, seeking help. Currently, unless those individuals are residents of Prince George's County or Baltimore City, there is no effective way for CASA to help connect them with support. SB129 would change that, by enhancing Maryland's commitment to community organizations and guaranteeing that we are able to connect these families with zealous counsel. CASA would closely cooperate with MLSC and any

¹ *The client's name has been changed to protect their identity.

organizations they designate to administer the Access to Counsel program to ensure that our community members are quickly connected to representation and larger holistic care.

Providing individuals who are being denied their liberty with access to counsel is a matter of fundamental fairness and comports with the due process principles that form the foundation of our justice system. Beyond being the morally correct thing to do, however, providing representation to these individuals is also good public policy. Not only does it serve to help keep families together, get hard-working individuals back to their jobs and contributing to the economy faster, it also helps guard against potentially dangerous abuses by federal immigration officials. This has been especially true during the COVID-19 pandemic, when ICE jails have become incubators for the virus, leading to thousands of infections and even deaths. The efforts of lawyers from CAIR Coalition, the American Civil Liberties Union and others have helped to shed light on these abuses, and secure the release of detainees before they contract COVID-19 and spread the disease. Unfortunately, due to the fact that most individuals lack access to counsel, the full scope of ICE's abuse during this pandemic are far from clear.

During the COVID-19 pandemic we have also seen ICE expand on a tactic it has long employed to transfer detainees to far-away detention centers, where access to counsel and community resources are even more limited. Sadly, ICE has responded to the pending closure of Maryland detention facilities by opening yet another jail in a remote part of western Pennsylvania. While we remain committed to fighting for the abolition of immigration detention in all of our states, and across the country, ICE's continued commitment to detention makes it absolutely necessary to provide our residents with access to effective counsel immediately - we cannot wait to realize the fundamental due process rights of our residents and allow families to continue to be separated.

CASA has already intervened to try to connect several Maryland residents detained in Georgia with referrals for immigration attorneys, but without a government-funded system to access a lawyer, it is incredibly difficult to get quality representation to help fight your case so far from home. That is why it is crucial that SB129 includes access to counsel for Maryland residents regardless of where they are detained, and authorizes the coordinator to fund their representation by a qualified private attorney, law school, nonprofit organization or other provider. This model ensures that the federal government cannot deny Marylanders of their rights simply by flying them to far-flung regions of the country.

When representation works, it can save lives. CASA is currently representing a woman who was transferred to immigration detention after being charged with a low-level, non-violent crime. The charge was dismissed, but once ICE got a hold of her she was trapped in their detention machine. ICE used her criminal history, comprised entirely of non-violent charges born out of a life of exploitation and almost none of which resulted in a conviction, to paint her as a "criminal alien" and seek to keep her detained. Luckily, she won bond and is now able to fight her case with access to the resources she needs to hopefully remain in the United States and continue to support her United States citizen

daughter. Without representation, she likely would have been deported to a country she fled decades ago where she continues to fear for her life.

Of course, providing counsel to detained immigrants is not nearly enough. In order to achieve true justice, we must do much more to end our state's complicity in a broken and dangerous federal immigration enforcement regime. Instead of empowering the rogue agencies who seek to disrupt our communities, we should invest in them, helping to protect those most vulnerable from eviction and hunger, ensuring their access to quality health care and continuing our commitment to the highest quality public education for all of our children. And we can and must grapple with the issues of racial justice that have become so apparent in the past two years, but have existed for generations.

Increased immigration enforcement and detention have deep implications for racial injustice. Communities of color, particularly Black communities, which are historically over-policed, over-charged, and over-prosecuted in the criminal justice system, encounter a similar systemic prejudice in the immigration system. Black immigrants make up 5.4 percent of the undocumented population in the United States but 20.3 percent of those facing deportation on criminal grounds. Access to counsel for those in immigration proceedings not only serves to address the inequity of income in the immigration courts, but also the compounded racial disparities affecting immigrants of color at the intersection of the criminal and immigration justice systems.

Representation alone is not enough to undo the decades of systemic issues facing immigrants in the United States, but a publicly funded deportation defense serves as a necessary check on an unjust system. And as we work toward a better system, everyone facing deportation deserves representation.

CASA strongly supports SB129 and urges a favorable report from the committee.

Sincerely,

/s/ Nicholas Katz

Nicholas Katz, Esq.
Legal Director
CASA